REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

Claims 13-19 and 34 are now pending in this application.

Claim Rejections under 35 U.S.C. § 102

Claims 13-19 and 34 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2004/0218341 ("Martin"). In response, Applicants respectfully traverse the rejection for the reasons set forth below.

Applicants rely on M.P.E.P. § 2131, entitled "Anticipation – Application of 35 U.S.C. § 102(a), (b) and (e)" which states, "a claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Applicants respectfully submit that Martin does not describe each and every element of the claims.

Independent claim 13 is directed to a method of controlling a gap between at least one fixed plate and an electrostatically movable plate in a MEMs device. Independent claim 34 is directed to an apparatus for controlling a gap between at least one fixed plate and an electrostatically movable plate in a MEMs device. In addition to other steps, independent claim 13 recites "time modulating a control signal to a controlled current output that is variable voltage compliant to represent a desired gap between the fixed plate and the electrostatically movable plate." Similarly, independent claim 34 recites a "means for selectively setting a reference current onto a controlled current output that is variable voltage compliant, the controlled current output coupled to the MEMs device on the basis of the time modulated control signal." Accordingly, by modulating the current source/control signal the claimed method and apparatus can achieve ideal charge control on a MEMs device which in turn allows for more precise control of the MEMS device.

In contrast, Martin does not disclose each and every limitation of independent claims 13 and 34. Martin discloses that a "[c]harge control circuit 32 is configured to control micro-electromechanical device 34 by applying a reference voltage having a selected voltage level

provided by variable power supply 36 across first and second conductive plates 42 and 44." However, Martin fails to disclose "time modulating a control signal" or a "controlled current output coupled to the MEMs device on the basis of the time modulated control signal" as claimed in claims 13 and 34.

M.P.E.P. § 2131 states that"[t]he identical invention must be shown in as complete detail as is contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Here, Martin fails to disclose the claimed invention in the requisite detail. Accordingly, Applicants request that the rejection be withdrawn and independent claims 13 and 34 be allowed. Further, claims 14-19 depend from independent claim 13 and should also be allowed for the reasons set forth above without regard to further patentable limitations cited therein.

If this rejection of the claims is maintained, the examiner is respectfully requested to point out where the above-mentioned features are disclosed in Martin.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 C.F.R. § 1.25. Additionally, charge any fees to Deposit Account 08-2025 under 37 C.F.R. § 1.16 through § 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Respectfully submitted,

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By Reg. No. 59,396

FOLEY & LARDNER LLP
Customer Number: 22879
Telephone: (202) 672-5485
Facsimile: (202) 672-5399

William T. Ellis
Attorney for Applicant
Registration No. 26,874